

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
BRIAN BOLAN,)
)
vs.) No. 12-0075
)
COMMONWEALTH EDISON COMPANY)
)
Complaint as to billing/charges)
in Chicago, Illinois.)

Chicago, Illinois
March 19, 2012

Met pursuant to notice at 11:00 a.m.

BEFORE:

MS. LESLIE HAYNES, Administrative Law Judge.

APPEARANCES :

MR. BRIAN BOLAN
4234 North Damen
Chicago, Illinois 60618
Appearing pro se;

MR. MARK L. GOLDSTEIN
3019 Province Circle
Mundelein, Illinois 60060
Appearing for ComEd.

ALSO PRESENT:

Ms. Erin Buechler

SULLIVAN REPORTING COMPANY, by
Tracy L. Overocker, CSR

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
None.					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None	so	marked.

1 JUDGE HAYNES: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call
3 Docket 12-0075. This is the complaint of Brian Bolan
4 versus Commonwealth Edison Company, complaint as to
5 billing or charges in Chicago, Illinois.

6 May I have the appearances, for the
7 record, please. Your name and address.

8 MR. BRIAN BOLAN: Brian Bolan 4234 North Damen,
9 Chicago, Illinois 60618.

10 MR. GOLDSTEIN: For Commonwealth Edison
11 Company, Mark L. Goldstein, 3019 Province Circle,
12 Mundelein, Illinois 60060. My telephone number is
13 (847) 949-1340. With me this morning is Erin
14 Buechler of ComEd.

15 JUDGE HAYNES: Thank you. This is the first
16 time this complaint is up here at the Commission and
17 the parties had an opportunity to discuss this matter
18 and I understand that the parties are unable to reach
19 an agreement and this is just a prehearing conference
20 today, we won't have the actual evidentiary hearing.
21 I like to give parties an opportunity to discuss
22 things and that was unsuccessful, but that's okay,

1 and -- otherwise it's just a matter of conducting
2 discovery, exchanging documents and I don't know,
3 Mr. Goldstein, were you able to provide him with
4 your -- the Company's records?

5 MR. GOLDSTEIN: Well, I guess he has all the
6 records. I would point out, for the record, that
7 Mr. Bolan is not the account holder for the property
8 at 2635 Wellington. His wife is. And the billing,
9 as far as I could tell, all have gone to her, so I
10 would assume that since we have not -- we reached an
11 impasse, she would have to be present at the actual
12 hearing.

13 JUDGE HAYNES: What was your -- were you aware
14 of that?

15 MR. BRIAN BOLAN: Yeah, that's my wife and it
16 was me as well. I live there as well with my wife.
17 Amazingly enough, I was the customer. I know it's --

18 JUDGE HAYNES: What's her name?

19 MR. BRIAN BOLAN: Kathleen Tighe.

20 JUDGE HAYNES: Okay. But a different last
21 name?

22 MR. BRIAN BOLAN: Yeah. She just didn't

1 change her name.

2 JUDGE HAYNES: How do you spell her last name?

3 MR. BRIAN BOLAN: T-i-g-h-e.

4 To be honest, that's just another

5 nuisance. I mean, just -- I'm downtown. I'm able to

6 do it and she's not able to come down very easily.

7 I'm able to get away and do this sort of thing. This

8 is just another example of what ComEd has been doing

9 to me all along, pushing it out, not settling, not

10 coming and recognizing the facts.

11 JUDGE HAYNES: His name is not on the account

12 at all?

13 MS. ERIN BUECHLER: No.

14 MR. BRIAN BOLAN: But in every instance that I

15 called, it was me calling and talking to ComEd and I

16 think if you could pull the number of phone calls

17 that I've had with them, the number of hours on the

18 phone, it's always been me. This is not like this is

19 a brand-new thing. It's always been Brian Bolan

20 talking about this account to the people on the phone

21 getting all this information.

22 JUDGE HAYNES: And if he's -- they're married,

1 wouldn't he be responsible for the bill any way?

2 MR. GOLDSTEIN: I don't know.

3 MR. BRIAN BOLAN: I do. I believe I would be

4 responsible.

5 MR. GOLDSTEIN: Okay. I guess, that's fine.

6 JUDGE HAYNES: I mean, I think that if worse

7 came to worse, she could call in. If he --

8 MR. GOLDSTEIN: I assume that under the Family

9 Expense statute that he might be liable.

10 JUDGE HAYNES: And if he's the one familiar

11 with the account --

12 MR. GOLDSTEIN: He's the one who is obviously

13 going to testify, so he might as well be here.

14 JUDGE HAYNES: If he's here in person --

15 MR. GOLDSTEIN: Yeah, that's fine.

16 JUDGE HAYNES: At most, maybe we can have her

17 name added to it without her actually having to come

18 in person.

19 Is it Kathleen with a K?

20 MR. BRIAN BOLAN: Yes.

21 JUDGE HAYNES: Is that a problem having her

22 name --

1 MR. BRIAN BOLAN: If you want to put her name
2 on it, that's absolutely fine. It's just her coming
3 down here is going to be an inconvenience that
4 doesn't need to occur.

5 JUDGE HAYNES: I think that -- to keep it
6 clear, we'll have -- I'll have her added as a
7 complainant, but you will be the one testifying and I
8 don't think that that should be a problem but because
9 she is the account holder --

10 MR. GOLDSTEIN: That's fine.

11 JUDGE HAYNES: Then I will have that noted at
12 the Clerk's Office.

13 So other than the fact that he's not
14 the account holder, the -- have parties exchanged
15 documents?

16 MR. BRIAN BOLAN: I have not given them the
17 document that I have.

18 JUDGE HAYNES: Okay. I don't think that we
19 need to set an actual schedule for discovery. If you
20 could just make sure that exchange of the documents
21 you have and then we'll go ahead and have --

22 MR. GOLDSTEIN: Perhaps Mr. Bolan can tell us

1 what documents he might want from ComEd, if any.

2 MR. BRIAN BOLAN: All.

3 MR. GOLDSTEIN: All is meaningless. You have
4 to tell me specifically what you want.

5 MR. BRIAN BOLAN: For the apartment on 2635
6 West Wellington, bills for every month of 2009 and
7 2010.

8 MR. GOLDSTEIN: Well, as I explained to you,
9 Mr. Bolan, during our discussion off the record, your
10 wife did not become the account holder until June of
11 2009 and we will not provide any bills prior to that
12 date.

13 MR. BRIAN BOLAN: Okay. History of a meter
14 reading at the account for 2635 West Wellington from
15 all of 2009. I just want to see the January meter
16 reading number. It doesn't have to be the name of
17 whoever held the account. I just want to verify that
18 the number that I have is the exact same number that
19 you guys are going to have because I got it from you
20 any way.

21 MR. GOLDSTEIN: That goes beyond the two-year
22 period, Judge, and I'm not certain we have that

1 number. We certainly did not have it in the hearing
2 room this morning. We will attempt to see if there
3 is such a number.

4 JUDGE HAYNES: Thank you. I think they also
5 keep records of phone calls.

6 MR. BRIAN BOLAN: Oh, good. Yeah. How about
7 some of that? I'd like all the phone calls. I had a
8 lot of them. You can see how much time I've wasted
9 on this. I mean, my dollar per hour saved here on
10 this \$200 that I'm going to make up is going to come
11 down to like \$1 per hour now.

12 MR. GOLDSTEIN: If the phone calls have any
13 meaning, which I certainly doubt as to relevance,
14 with respect to Mr. Bolan's claim, I'm going to
15 refuse to provide that at the moment.

16 MR. BRIAN BOLAN: I'll say that they have
17 absolute relevance because that's how I gained all
18 the information that's provided here, especially the
19 number that you don't want to provide that was two
20 years ago. Those calls will prove that you gave me
21 that number, that this number is legitimate and that
22 my analysis is correct.

1 MR. GOLDSTEIN: If you talked to a customer
2 service representative two years ago, there is a
3 possibility that that call exists; if you spoke to
4 anybody else to obtain that number, you would have to
5 give us the name of that person and I sort of doubt
6 that there would be a recording of that phone call.

7 JUDGE HAYNES: Okay. Well, if you can provide
8 him with the Company's records for any phone calls --
9 any records you have for phone calls with Mr. Bolan.

10 MR. GOLDSTEIN: We will attempt to provide that
11 as long as it's understood that the phone calls that
12 Mr. Bolan would be receiving would be phone calls
13 with customer service representatives.

14 JUDGE HAYNES: He just wants to see what
15 records you have. We're not going to -- no
16 evidentiary rulings here, just what you are producing
17 in discovery.

18 MR. BRIAN BOLAN: And a copy of all the bills.

19 JUDGE HAYNES: Yeah, that you said. I've got
20 bills, meter read history and the phone logs.

21 MR. BRIAN BOLAN: I don't think there's
22 anything else. There's no other point to anything.

1 JUDGE HAYNES: Okay. Then would --

2 MR. BRIAN BOLAN: You know what, I'm sorry. I

3 actually want to amend that. If you could, every

4 attempt at settlement that ComEd has attempted to

5 make with me --

6 MR. GOLDSTEIN: I object to that.

7 MR. BRIAN BOLAN: -- not necessarily here, but

8 in the past as well.

9 MR. GOLDSTEIN: Obviously, I'm going to object

10 to that, Judge. It has nothing to do with the

11 relevant complaint. Any attempt at settlement -- we

12 made an offer this morning and that offer right now

13 is off the table.

14 MR. BRIAN BOLAN: They've made several offers

15 in the past.

16 MR. GOLDSTEIN: They're all off the table.

17 MR. BRIAN BOLAN: I would just like to know

18 what they were each time because it's changed.

19 MR. GOLDSTEIN: It's not relevant.

20 JUDGE HAYNES: Yeah, I don't know that it's

21 necessarily relevant to the actual issue in the

22 complaint, although it might be interesting, but I

1 don't know that it's necessarily relevant.

2 MR. BRIAN BOLAN: I just want it just for the
3 data purposes to show that, you know, my numbers have
4 never changed and their numbers continuously change
5 over time.

6 JUDGE HAYNES: But it doesn't necessarily have
7 to do with what -- the only question before me is
8 what the actual bills should be and what they might
9 be willing to give you for it is something different
10 than what I can actually decide here.

11 MR. BRIAN BOLAN: Right.

12 JUDGE HAYNES: And I think you said somewhere
13 you have a spreadsheet. Have you provided that to
14 them?

15 MR. BRIAN BOLAN: Would you guys like it?

16 MR. GOLDSTEIN: Yeah, sure.

17 MR. BRIAN BOLAN: I'll give you the whole
18 document. It kind of explains everything. On the
19 very last page, you'll see a spreadsheet that goes
20 through pretty much everything, but all the data
21 that's in here is consistent throughout.

22 JUDGE HAYNES: Okay.

1 MR. BRIAN BOLAN: Would you like one as well.

2 JUDGE HAYNES: Well, you can bring it to -- the

3 next time and we'll have the actual hearing and --

4 MR. GOLDSTEIN: I assume that's the sum and

5 substance of your evidence?

6 MR. BRIAN BOLAN: Pretty much.

7 MR. GOLDSTEIN: All right.

8 JUDGE HAYNES: And, of course, whatever

9 testimony.

10 MR. GOLDSTEIN: Yes, obviously.

11 JUDGE HAYNES: So let's pick a date then to

12 have the evidentiary hearing and -- although your

13 wife, we won't make her come in person, maybe she'll

14 want to listen in, maybe if she -- if we could pick a

15 time when she'd be available on the phone.

16 MR. BRIAN BOLAN: It's -- the matter is so

17 frustrating for her --

18 JUDGE HAYNES: Right.

19 MR. BRIAN BOLAN: -- and me, adding more to it

20 doesn't help. Can I have her sign some sort of

21 affidavit that says that I'm the person that will

22 take all the responsibility of everything.

1 JUDGE HAYNES: Mr. Goldstein, do you have any
2 objection to not even having her present or --

3 MR. GOLDSTEIN: I have no problem with her not
4 being present.

5 JUDGE HAYNES: Okay. So we'll just deal with
6 Mr. Bolan?

7 MR. GOLDSTEIN: Yes.

8 JUDGE HAYNES: Okay. Then let's just pick a
9 date when you are available.

10 MR. GOLDSTEIN: That's the problem.

11 JUDGE HAYNES: Is April too early?

12 MR. BRIAN BOLAN: Tomorrow? Is tomorrow good?

13 MR. GOLDSTEIN: As a matter of fact, I have a
14 trial tomorrow. You want to sit in?

15 MR. BRIAN BOLAN: No. Can we do it right
16 after?

17 MR. GOLDSTEIN: No. May 15th, Judge, is
18 probably the earliest day I have.

19 JUDGE HAYNES: Not even a Monday in April?

20 MR. GOLDSTEIN: No Mondays in April.

21 MR. BRIAN BOLAN: Tuesdays in April?

22 JUDGE HAYNES: Fridays in April?

1 MR. GOLDSTEIN: Tuesdays are out.

2 JUDGE HAYNES: Tuesdays, Wednesdays and

3 Thursdays I'm guessing are out. Mondays and Fridays

4 will be our only hope.

5 MR. BRIAN BOLAN: There's five Mondays in

6 April. The 15th of May is a Tuesday.

7 MR. GOLDSTEIN: That's correct.

8 JUDGE HAYNES: But far enough out.

9 MR. BRIAN BOLAN: Mondays are the best?

10 JUDGE HAYNES: No. No. It doesn't -- there

11 are less hearings here on Mondays which was the only

12 reason I thought he might be available on a Monday.

13 MR. GOLDSTEIN: Of course, May 7th --

14 JUDGE HAYNES: Actually, no, we're not supposed

15 to schedule hearings that week because apparently

16 they're worried about protests.

17 MR. GOLDSTEIN: Oh.

18 JUDGE HAYNES: Although now the G8 is not going

19 to be here, but anyway.

20 MR. GOLDSTEIN: You want to do it April 30th?

21 I don't know if that's a Monday.

22 MR. BRIAN BOLAN: That's the worst day that you

1 could have chosen for me.

2 JUDGE HAYNES: Me, too.

3 MR. BRIAN BOLAN: The 27th and the 30th, I

4 can't do it.

5 MR. GOLDSTEIN: I'm not -- I'm going to be out

6 of town on the 23rd. I've got continuing legal

7 education on the 16th. I've got two hearings on the

8 9th.

9 JUDGE HAYNES: And no Fridays?

10 MR. BRIAN BOLAN: We can do it after the second

11 hearing on the 9th. It will only take 20 minutes.

12 MR. GOLDSTEIN: That's what you think. I've

13 done this more than you have.

14 MR. BRIAN BOLAN: No, I know.

15 JUDGE HAYNES: Well, what about Monday the 9th

16 if -- you won't -- is that 12-103? We can do all

17 this off the record.

18 (Discussion off the record.)

19 JUDGE HAYNES: The parties have agreed on April

20 25th at 1:00 o'clock.

21 Mr. Bolan, are you familiar with how

22 evidentiary hearings work?

1 MR. BRIAN BOLAN: No, I'm not.

2 JUDGE HAYNES: Okay. That's the day that you
3 will -- you and/or your wife, if you so choose, would
4 present any evidence you have and you would testify
5 and the Company would then cross-examine you. And
6 the Company will also be bringing witnesses and you
7 will have the opportunity to cross-examine their
8 witnesses, if you have questions for them.

9 And that day, I do not issue a ruling,
10 I issue a written ruling after that after the
11 transcript is available, and parties have an
12 opportunity to file written comments in response to
13 my written ruling. That's still not the final
14 ruling.

15 The Commissioners are the ones to make
16 the final decision and then that would be presented
17 to them at a bench session and they would vote on an
18 order. So, although, we will have a hearing
19 April 25th, you won't get a discussion -- a decision
20 for a while, just so you're aware of that.

21 MR. BRIAN BOLAN: It's been three years.

22 JUDGE HAYNES: You can wait then.

1 MR. BRIAN BOLAN: I can wait a few extra
2 months.
3 JUDGE HAYNES: Okay. Do you have any
4 questions?
5 MR. BRIAN BOLAN: None.
6 JUDGE HAYNES: Okay. Anything else?
7 MR. GOLDSTEIN: I have nothing else, Judge.
8 JUDGE HAYNES: Okay. Then we are continued
9 until April 25th at 1:00 p.m.
10 (Whereupon, the hearing in the
11 above-entitled matter was
12 continued until April 25, 2012 at
13 1:00 p.m.)
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